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10/650,497

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Paul A. Blowers

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MEDTRONIC, INC.  
710 MEDTRONIC PARKWAY NE  
MINNEAPOLIS, MN 55432-9924

EXAMINER

REYES, REGINALD R

ART UNIT

PAPER NUMBER

3626

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                       |  |
|------------------------------|--------------------------------------|---------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/650,497 | <b>Applicant(s)</b><br>BLOWERS ET AL. |  |
|                              | <b>Examiner</b><br>REGINALD REYES    | <b>Art Unit</b><br>3626               |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Status of Claims***

1. This office action is made Final. Claim 1-44 have been examined and are addressed below.

***Response to Amendment/Arguments***

2. With respect to claims 1-44, Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.
3. The rejection of claims 1-44 under 35 USC § 112, 2<sup>nd</sup> paragraph is withdrawn in light of Applicant's amendment.
4. The rejection of claims 1-16 under 35 USC § 101 is withdrawn in light of Applicant's amendment.
5. Applicant's arguments filed 10-17-2008 have been fully considered but they are not persuasive. Examiner disagrees with applicant's arguments. With respect to claim 1 Rueter teaches a method comprising: prioritizing with a prioritization engine events obtained from interrogation of a medical device implanted in a patient, wherein the prioritization engine is external to the patient and presenting a list of the events based on the prioritization (see for example Rueter column 1 lines 44-48 and lines 65-67 and column 2 lines 1-9 and column 2 lines 10-25 and column 3 lines 33-36).

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3626

6. Claims 10 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The examiner notes that claims 9-11 are the same. For examining purposes, claims 10-11 will be treated the same as claim 9 which states wherein prioritizing events includes prioritizing the events based on a relative importance associated with the events.

7. Claims 35 and 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The examiner notes that claims 34-36 are the same. For examining purposes, claims 35-36 will be treated the same as claim 34 which states wherein prioritizing events includes prioritizing the events based on a relative importance associated with the events.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 3, 4, 8, 9, 10, 11, 13, 17, 22, 25, 29, 31, 32, 33, 34, 35, 36, 38, 39 and 43 are rejected under 35 U.S.C. 103(a) as being obvious by Rueter U.S. Patent Number 5,944,745.

Art Unit: 3626

9. With respect to claims 1, 8, 17, 29, 33 and 39 Rueter teaches a method comprising: prioritizing with a prioritization engine events obtained from interrogation of a medical device implanted in a patient, wherein the prioritization engine is external to the patient and presenting a list of the events based on the prioritization (see for example Rueter column 1 lines 44-48 and lines 65-67 and column 2 lines 1-9 and column 2 lines 10-25 and column 3 lines 33-36). Rueter does not specifically recite that the events include therapy and diagnostic events. However, Official Notice is taken that the history of medical device interrogation an event consists of therapies and diagnostics. One of ordinary skill in the art at the time of invention would have found it obvious to combine the prioritizing method of Reuter with the commonly recognized practice of events in the medical field with the motivation of extracting data that are relevant to the user.

10. With respect to claims 3, 9, 10, 11, 22, 31, 34, 35, 36 and 43 Rueter teaches the method of claim 1 (as described above). Rueter teaches wherein prioritizing events includes prioritizing the events based on a relative importance associated with the events (see for example Rueter column 1 lines 65-67 and column 2 lines 1-9).

11. With respect to claims 4, 13, 25, 32 and 38 Rueter teaches the method of claim 1 (as described above). Rueter teaches further comprising invoking a special action in response to an event with a relative importance that exceeds a threshold (see for example Rueter column 7 lines 66-67 and column 8 lines 1-4).

12. Claims 2, 7, 12, 16, 18, 19, 23, 28, 30, 40, 41 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rueter U.S. Patent Number 5,944,745 in view of Duffin et al U.S. Patent Number 6,292,698.

13. With respect to claim 2, 12, 23, 30 and 44, Rueter teaches the method of claim 1 (as described above). Rueter does not teach prioritizing events obtained from a plurality of medical devices implanted in different patients; and presenting a list of the patients and a list of the events for each of the patients based on the prioritization. Duffin teaches, further comprising: prioritizing events obtained from a plurality of medical devices implanted in different patients; and presenting a list of the patients and a list of the events for each of the patients based on the prioritization (see for example Duffin column 14 lines 25-29). It would have been obvious to one of ordinary skill in the art at the time of application to combine both features to monitor multiple patients.

14. With respect to claim 7, 16 and 28 Rueter teaches the method of claim 4 (as described above). Rueter does not teach wherein the special action includes generating an alarm, notifying a clinician, and notifying a patient. Duffin teaches wherein the special action includes generating an alarm, notifying a clinician, and notifying a patient (see for example Duffin column 3 lines 13-19 and column 14 lines 3-15). It would have been obvious to one of ordinary skill in the art at the time of application to combine both features to better monitor patients and their implanted medical devices.

15. With respect to claims 18 and 40, Rueter teaches the system of claim 17 (as described above). Reuter does not teach further comprising a data management application that parses raw data from the implantable medical device, and populates fields of a database with event data. Duffin teaches further comprising a data management application that parses raw data from the implantable medical device, and populates fields of a database with event data (see for example Duffin column 13 lines 65-67 and column 14 1-3). It would have been obvious to one of ordinary skill in the art at the time of application to combine both features to get an updated data.

16. With respect to claims 19 and 41 Rueter teaches the system of claim 18 (as described above). Rueter does not teach wherein the event data comprises one of patient name, device type, date event data was parsed, and event type. Duffin teaches wherein the event data comprises one of patient name, device type, date event data was parsed, and event type (see for example Duffin column 14 lines 45-54). It would have been obvious to one of ordinary skill in the art at the time of application to combine both features to gather effective data.

17. Claims 5, 6, 14, 15, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rueter U.S. Patent Number 5,944,745 in view of Hwang U.S. Patent Number 5,920,271.

Art Unit: 3626

18. With respect to claims 5, 14 and 26 Rueter teaches the method of claim 4 (as described above). Rueter does not teach wherein the special action comprises using a conspicuous text format when presenting data from the event. Hwang teaches wherein the special action comprises using a conspicuous text format when presenting data from the event (see for example Hwang column 5 lines 58-67). It would have been obvious to one of ordinary skill to combine both features to alert the user the importance of certain messages are.

19. With respect to claims 6, 15, and 27 Rueter teaches the method of claim 5 (as described above). Rueter does not teach wherein the conspicuous text format includes one of font, bold text, highlighted text, underlined text, and italicized text. Hwang teaches wherein the conspicuous text format includes one of font, bold text, highlighted text, underlined text, and italicized text (see for example Hwang column 5 lines 58-67). It would have been obvious to one of ordinary skill to combine both features to alert the user the importance of certain messages are.

20. Claims 20, 21 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rueter U.S. Patent Number 5,944,745 in view of Webb et al U.S. Patent Number 7,060,031.

21. With respect to claim 20 Rueter teaches the system of claim 17 (as described above). Rueter does not further comprising a database to store the prioritized events, wherein the user interface device includes a web browser to access the prioritized



Art Unit: 3626

events via a network connection. Webb teaches further comprising a database to store the prioritized events, wherein the user interface device includes a web browser to access the prioritized events via a network connection (see for example Webb column 13 lines 66-67 and column 14 lines 1-2 and Fig 4). It would have been obvious to one of ordinary skill in the art to combine the features to have better accessibility to the database.

22. With respect to claim 21 Rueter in view of Webb teaches the system of claim 20 (as described above). Webb teaches further comprising a derivation engine to generate additional events based on the stored events (see for example Webb column 17 lines 63-67 and column 18 lines 1-15 and Fig 7A).

23. With respect to claim 42 Rueter teaches the system of claim 39 (as described above). Rueter does not teach further comprising a derivation engine to generate additional events based on the stored events. Webb teaches further comprising a derivation engine to generate additional events based on the stored events (see for example Webb column 17 lines 63-67 and column 18 lines 1-15 and Fig 7A). Therefore it would have been obvious to one of ordinary skill in the art to combine both arts to better service the clients.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 6,083,248 teaches world wide patient location and data telemetry system for implantable medical devices.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to REGINALD REYES whose telephone number is (571)270-5212. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Gilligan can be reached on 571-272-6670. The fax phone

Art Unit: 3626

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. R./  
Examiner, Art Unit 3626

/C Luke Gilligan/

Supervisory Patent Examiner, Art Unit 3626